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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,439	12/31/2003	Christopher M. Meck	ZIM0400	1791
7590 08/07/2007				
John F. Hoffman, Esq. BAKER & DANIELS LLP Suite 800 111 East Wayne Street Fort Wayne, IN 46802				
			EXAMINER GEORGE, TARA R	
			ART UNIT 3733	PAPER NUMBER
			MAIL DATE 08/07/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/750,439	<b>Applicant(s)</b> MEEK, CHRISTOPHER M.	
	<b>Examiner</b> Tara R. George	<b>Art Unit</b> 3733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4 and 6-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 6-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

This action is in response to the amendment received on 4/27/2007.

Claims 1,4 and 6-11 are pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,4 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman (US Pat. 7,131,973) in view of Griner et al. (US Pub. 2004/0039450 A1).

Hoffman discloses a driver for driving fasteners inside an orthopedic implant having a fastener receiving portion for receiving a fastener along a fastener axis, a portion of the implant overhanging the fastener receiving portion, the driver comprising a shaft having a fastener engaging end, a driven end, and a shaft axis therebetween (see figure 3A). The shaft can have an intermediate portion between the fastener engaging end and the driven end, a first bend axially spaced a first distance from the fastener engaging end, a second bend offset radially from the shaft axis a second distance, and a third bend axially spaced a third distance from the fastener engaging end (see figure 3A) the shaft structured and arranged such that during application of the rotational

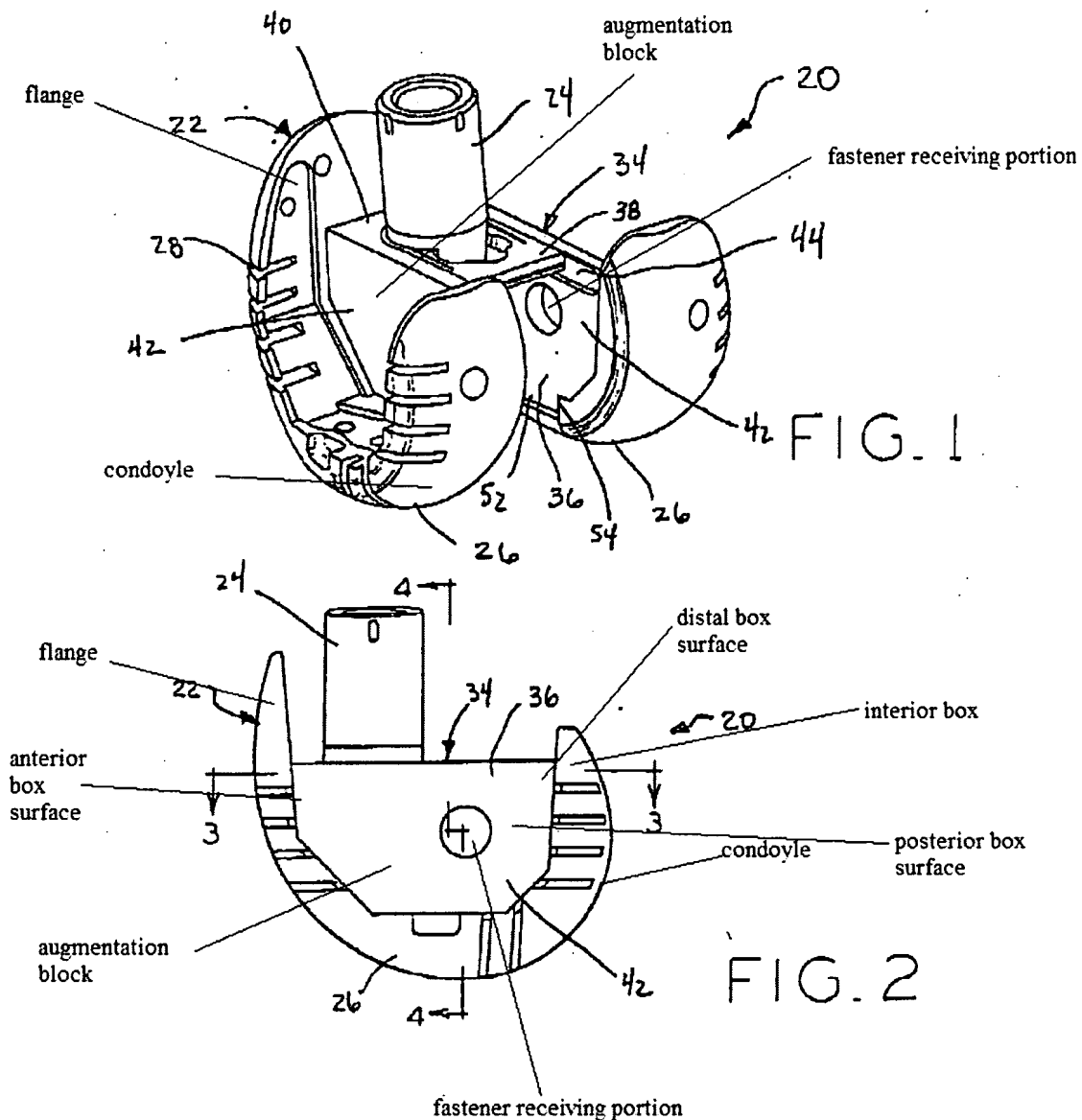
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forces to the driven end the intermediate portion rotates along the longitudinal axis (see col. 1 lines 55-65).

Hoffman discloses the claimed invention except for the knee joint implant having a patellar flange, a distal condyle, a posterior condyle, an interior box area, an anterior box surface, a distal box for receiving a fastener, and a posterior box surface for receiving a fastener, wherein said flange has a patellar flange height less than or equal to said second distance, and said first distance is greater than or equal to a posterior condyle height. Griner discloses a knee joint implant (see Figure 1 below and Figure 2 below) having a patellar flange (see Figure 1 below and Figure 2 below), a distal condyle (see Figure 1 below and Figure 2 below), a posterior condyle (see Figure 1 below and Figure 2 below), an interior box area (see Figure 1 below and Figure 2 below), an anterior box surface (see Figure 1 below and Figure 2 below), a distal box for receiving a fastener (see Figure 1 below and Figure 2 below), and a posterior box surface for receiving a fastener (see Figure 1 below and Figure 2 below), wherein said flange has a patellar flange height less than or equal to said second distance, and said first distance is greater than or equal to a posterior condyle height. It would have been obvious to one skilled in the art at the time the invention was made to construct the driver of Hoffman for use with the knee joint implant having a patellar flange, a distal condyle, a posterior condyle, an interior box area, an anterior box surface, a distal box for receiving a fastener, and a posterior box surface for receiving a fastener, wherein said flange has a patellar flange height less than or equal to said second distance, and said first distance is greater than or equal to a posterior condyle height in

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view of Griner in order to provide a device that is flexible enough to adapt to the limited space constraints while implanting a knee prosthesis. With regards to claim 11, please note that the structural elements of the implant clearly dictate how the implant is to be implanted.



**Response to Arguments**

Applicant's arguments with respect to claims 1,4 and 6-11 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 for art of cited interest.

Any inquiry concerning this communication should be directed to Tara George whose telephone number is 571-272-3402. The examiner can normally be reached on M-F 8am-5pm. If attempts to reach examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert, can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-5300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions about access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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EDUARDO ROBERT  
SUPERVISOR, PATENT EXAMINER